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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

MARCUS FREEMAN MILLER,

Defendant and Appellant.

C086178

(Super. Ct. No. 17FE002453)

Appointed counsel for defendant Marcus Freeman Miller has filed an opening brief that sets forth the facts of the case and asks this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).) After reviewing the record, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 123-124.)

In January 2017, defendant unlawfully possessed a Glock semiautomatic handgun. Defendant had previously been convicted of three felonies.

In August 2017, defendant pleaded no contest to being a felon in possession of a firearm. (Pen. Code, § 29800, subd. (a)(1).)¹ Defendant also admitted a prior strike and two prior prison terms. (§§ 667, subds. (b)-(i), 667.5, subd. (b).) In exchange, the trial court and defendant agreed to a five-year sentence lid.

In December 2017, the trial court denied defendant's motion to dismiss the strike pursuant to *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497. The trial court sentenced defendant to state prison for an aggregate term of four years eight months as follows: 32 months for the unlawful firearm possession (16 months, doubled due to the strike) plus two years for the prior prison term enhancements. The trial court awarded 624 days of custody credit and imposed a \$300 restitution fine (§ 1202.4, subd. (b)) and a corresponding \$300 parole revocation fine, suspended unless parole is revoked (§ 1202.45). In addition, the trial court imposed a \$40 court security fee (§ 1465.8), a \$30 conviction assessment fee (Gov. Code, § 70373), and a \$702 presentence report cost (§ 1203.1b, subd. (a)). The trial court also ordered DNA testing. (§ 296.)

DISCUSSION

Appointed counsel filed an opening brief that sets forth the facts of the case and asks us to determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Counsel advised defendant of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no such communication from defendant.

We have undertaken an examination of the entire record and find no arguable error that would result in a disposition more favorable to defendant.

¹ Undesignated statutory references are to the Penal Code in effect at the time of the charged offenses.

DISPOSITION

The judgment is affirmed.

s/MURRAY, J.

We concur:

s/ROBIE, Acting P. J.

s/MAURO, J.